

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

DOROTHY G. GIBSON, et al.,

Case No: C 13-01416 SBA

## Plaintiffs,

**ORDER GRANTING  
DEFENDANT'S  
MOTION TO STAY**

vs.

BRISTOL-MYERS SQUIBB COMPANY,  
MCKESSON CORPORATION, and DOES 1  
to 100,

Docket 9

### Defendants.

The parties are presently before the Court on Bristol-Myers Squibb Company’s (“BMS”) motion to stay pending transfer to the Plavix® MDL. Dkt. 9. Having read and considered the papers filed in connection with this matter and being fully informed, the Court hereby GRANTS BMS’ motion to stay for the reasons stated below.<sup>1</sup> The Court, in its discretion, finds this matter suitable for resolution without oral argument. See Fed.R.Civ.P. 78(b); N.D. Cal. Civ. L.R. 7-1(b).<sup>2</sup>

## I. BACKGROUND

On March 1, 2013, Plaintiffs commenced the instant action against Defendants BMS and McKesson Corporation (collectively “Defendants”) in the Superior Court of California, County of San Francisco, alleging injuries arising out of the use of the prescription drug Plavix®, Compl., Dkt. 1. On March 29, 2013, Defendants removed the case to this Court

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<sup>1</sup> The Court, in its discretion, finds this matter suitable for resolution without oral argument. See Fed.R.Civ.P. 78(b); N.D. Cal. Civ. L.R. 7-1(b).

<sup>2</sup> Plaintiffs has filed an administrative motion for an order shortening time to have their motion for remand heard before the instant motion. In light of this decision, the Court denies Plaintiffs' motion as moot.

1 based on diversity jurisdiction, 28 U.S.C. § 1332(a). See Notice of Removal, Dkt. 1.

2 Due to the number of Plavix® products liability actions filed, the Judicial Panel on  
 3 Multidistrict Litigation (“MDL Panel”) established an MDL court in the United States  
 4 District Court for the District of New Jersey. See In re Plavix Mktg., Sales Practices &  
5 Prods. Liab. Litig. (No. II), MDL No. 2418 (“Plavix® MDL”). On April 2, 2013, the MDL  
 6 Panel conditionally transferred this case to the MDL court. See Dkt. 9, Exh. C. The issue  
 7 of whether this action will be transferred to the Plavix® MDL is currently pending before  
 8 the MDL Panel.

9 **II. DISCUSSION**

10 Federal district courts have the inherent power to stay ongoing proceedings. This  
 11 power “is incidental to the power inherent in every court to control the disposition of the  
 12 causes on its docket with economy of time and effort for itself, for counsel, and for  
 13 litigants.” Landis v. N. Am. Co., 299 U.S. 248, 254 (1936). A district court’s decision to  
 14 grant or deny a stay is a matter of discretion. Dependable Highway Express, Inc. v.  
15 Navigators Ins. Co., 498 F.3d 1059, 1066 (9th Cir. 2007).

16 In determining whether to stay proceedings pending a motion before the MDL  
 17 Panel, the factors to consider include: (1) conserving judicial resources and avoiding  
 18 duplicative litigation; (2) hardship and inequity to the moving party if the action is not  
 19 stayed; and (3) potential prejudice to the non-moving party. In re iPhone Application  
20 Litig., No. C 10-5878 LHK, 2011 WL 2149102, \*2 (N.D. Cal. 2011); see also Rivers v.  
21 Walt Disney Co., 980 F. Supp. 1358, 1360 (C.D. Cal. 1997).

22 The Court finds that the above-referenced factors weigh in favor of a stay.<sup>3</sup> First,  
 23 there is no evidence that Plaintiffs will be prejudiced or inconvenienced by a temporary  
 24 stay. If this case is transferred to the Plavix® MDL, Plaintiffs will be able to present their  
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26 <sup>3</sup> Other courts in this District that have granted motions to stay in similar cases. See  
Arenberg v. Bristol-Myers Squibb Co., C 12-06207 SBA (N.D. Cal. Apr. 22, 2013); see  
Aiken v. Bristol-Myers Squibb Co., C 12-05208 RS (N.D. Cal. Mar. 14, 2013); Vanny v.  
Bristol-Myers Squibb Co., C 12-05752 SI (N.D. Cal. Mar. 25, 2013); Arnold v. Bristol-  
27 Myers Squibb Co., C 12-6426 TEH (N.D. Cal. Apr. 3, 2013); Kinney v. Bristol-Myers  
28 Squibb Co., C 12-4477 EMC (N.D. Cal. Apr. 12, 2013).

1 motion to remand in the proceeding. On the other hand, if the case is not transferred, this  
2 Court will resolve the remand issue. Furthermore, it is unlikely that the stay will be  
3 lengthy, since the conditional transfer issue will be decided by the MDL Panel shortly after  
4 May 30, 2013. Dkt. 9 at 2 n.2; see Kinney v. Bristol-Myers Squibb Co., C 12-4477 EMC  
5 (N.D. Cal. Apr. 12, 2013). Second, BMS may suffer hardship and inequity if the stay is not  
6 imposed. If this Court prematurely adjudicates Plaintiffs' motion to remand, BMS may be  
7 forced to re-litigate issues before the MDL Panel or in state court. See Arnold v. Bristol-  
8 Myers Squibb Co., C 12-6426 TEH (N.D. Cal. Apr. 3, 2013). Finally, a stay would  
9 promote judicial economy and uniformity. In light of the numerous motions to remand  
10 pending before various judges of this District in other Plavix® products liability actions,  
11 staying the action will avoid the possibility of inconsistent results and will conserve judicial  
12 resources by avoiding the needless duplication of work in the event this case is transferred.

13 **III. CONCLUSION**

14 For the reasons stated above,

15 IT IS HEREBY ORDERED THAT:

16 1. BMS' motion to stay is GRANTED. The hearing scheduled for June 4, 2013  
17 is VACATED. This action is STAYED until the pending conditional transfer matter is  
18 resolved by the MDL Panel. The parties shall inform the Court within seven (7) days from  
19 the date this matter is resolved.

20 2. This Order terminates Docket 9 and 20.

21 IT IS SO ORDERED.

22 Dated: May 13, 2013

  
23 SAUNDRA BROWN ARMSTRONG  
24 United States District Judge

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